



Adopted in Senate on Feb 14, 2006

09400SB2796sam001

LRB094 16298 NHT 55535 a

1 AMENDMENT TO SENATE BILL 2796

2 AMENDMENT NO. _____. Amend Senate Bill 2796 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing Sections
5 14-8.02, 14-8.02a, 14-8.02b, and 14-12.01 and by adding
6 Sections 14-8.02c and 14-8.02d as follows:

7 (105 ILCS 5/14-8.02) (from Ch. 122, par. 14-8.02)

8 Sec. 14-8.02. Identification, Evaluation and Placement of
9 Children.

10 (a) The State Board of Education shall make rules under
11 which local school boards shall determine the eligibility of
12 children to receive special education. Such rules shall ensure
13 that a free appropriate public education be available to all
14 children with disabilities as defined in Section 14-1.02. The
15 State Board of Education shall require local school districts
16 to administer non-discriminatory procedures or tests to
17 limited English proficiency students coming from homes in which
18 a language other than English is used to determine their
19 eligibility to receive special education. The placement of low
20 English proficiency students in special education programs and
21 facilities shall be made in accordance with the test results
22 reflecting the student's linguistic, cultural and special
23 education needs. For purposes of determining the eligibility of
24 children the State Board of Education shall include in the

1 rules definitions of "case study", "staff conference",
2 "individualized educational program", and "qualified
3 specialist" appropriate to each category of children with
4 disabilities as defined in this Article. For purposes of
5 determining the eligibility of children from homes in which a
6 language other than English is used, the State Board of
7 Education, no later than September 1, 1993, shall include in
8 the rules definitions for "qualified bilingual specialists"
9 and "linguistically and culturally appropriate individualized
10 educational programs". For purposes of ~~in~~ this Section, as well
11 as Sections 14-8.02a, 14-8.02b, and 14-8.02c of this Code,
12 "parent" means a parent as defined in the federal Individuals
13 with Disabilities Education Act (20 U.S.C. 1401(19)) ~~includes a~~
14 foster parent.

15 (b) No child shall be eligible for special education
16 facilities except with a carefully completed case study fully
17 reviewed by professional personnel in a multidisciplinary
18 staff conference and only upon the recommendation of qualified
19 specialists or a qualified bilingual specialist, if available.
20 At the conclusion of the multidisciplinary staff conference,
21 the parent ~~or guardian~~ of the child shall be given a copy of
22 the multidisciplinary conference summary report and
23 recommendations, which includes options considered, and be
24 informed of their right to obtain an independent educational
25 evaluation if they disagree with the evaluation findings
26 conducted or obtained by the school district. If the school
27 district's evaluation is shown to be inappropriate, the school
28 district shall reimburse the parent for the cost of the
29 independent evaluation. The State Board of Education shall,
30 with advice from the State Advisory Council on Education of
31 Children with Disabilities on the inclusi
32 on of specific independent educational evaluators, prepare a
33 list of suggested independent educational evaluators. The
34 State Board of Education shall include on the list clinical

1 psychologists licensed pursuant to the Clinical Psychologist
2 Licensing Act. Such psychologists shall not be paid fees in
3 excess of the amount that would be received by a school
4 psychologist for performing the same services. The State Board
5 of Education shall supply school districts with such list and
6 make the list available to parents at their request. School
7 districts shall make the list available to parents at the time
8 they are informed of their right to obtain an independent
9 educational evaluation. However, the school district may
10 initiate an impartial due process hearing under this Section
11 within 5 days of any written parent ~~or guardian~~ request for an
12 independent educational evaluation to show that its evaluation
13 is appropriate. If the final decision is that the evaluation is
14 appropriate, the parent still has a right to an independent
15 educational evaluation, but not at public expense. An
16 independent educational evaluation at public expense must be
17 completed within 30 days of a parent ~~or guardian~~ written
18 request unless the school district initiates an impartial due
19 process hearing or the parent ~~or guardian~~ or school district
20 offers reasonable grounds to show that such 30 day time period
21 should be extended. If the due process hearing decision
22 indicates that the parent ~~or guardian~~ is entitled to an
23 independent educational evaluation, it must be completed
24 within 30 days of the decision unless the parent ~~or guardian~~ or
25 the school district offers reasonable grounds to show that such
26 30 day period should be extended. If a parent disagrees with
27 the summary report or recommendations of the multidisciplinary
28 conference or the findings of any educational evaluation which
29 results therefrom, the school district shall not proceed with a
30 placement based upon such evaluation and the child shall remain
31 in his or her regular classroom setting. No child shall be
32 eligible for admission to a special class for the educable
33 mentally disabled or for the trainable mentally disabled except
34 with a psychological evaluation and recommendation by a school

1 psychologist. Consent shall be obtained from the parent ~~or~~
2 ~~guardian~~ of a child before any evaluation is conducted. If
3 consent is not given by the parent ~~or guardian~~ or if the parent
4 ~~or guardian~~ disagrees with the findings of the evaluation, then
5 the school district may initiate an impartial due process
6 hearing under this Section. The school district may evaluate
7 the child if that is the decision resulting from the impartial
8 due process hearing and the decision is not appealed or if the
9 decision is affirmed on appeal. The determination of
10 eligibility shall be made within 60 ~~school~~ days from the date
11 of written parental consent ~~referral by school authorities for~~
12 ~~evaluation by the district or date of application for~~
13 ~~admittance by the parent or guardian of the child~~. In those
14 instances when students are referred for evaluation with fewer
15 than 60 pupil attendance days left in the school year, the
16 eligibility determination shall be made prior to the first day
17 of the following school year. After a child has been determined
18 to be eligible for a special education class, such child must
19 be placed in the appropriate program pursuant to the
20 individualized educational program by or no later than the
21 beginning of the next school semester. The appropriate program
22 pursuant to the individualized educational program of students
23 whose native tongue is a language other than English shall
24 reflect the special education, cultural and linguistic needs.
25 No later than September 1, 1993, the State Board of Education
26 shall establish standards for the development, implementation
27 and monitoring of appropriate bilingual special individualized
28 educational programs. The State Board of Education shall
29 further incorporate appropriate monitoring procedures to
30 verify implementation of these standards. The district shall
31 indicate to the parent ~~or guardian~~ and the State Board of
32 Education the nature of the services the child will receive for
33 the regular school term while waiting placement in the
34 appropriate special education class.

1 If the child is deaf, hard of hearing, blind, or visually
2 impaired and he or she might be eligible to receive services
3 from the Illinois School for the Deaf or the Illinois School
4 for the Visually Impaired, the school district shall notify the
5 parents ~~or guardian~~, in writing, of the existence of these
6 schools and the services they provide and shall make a
7 reasonable effort to inform the parents ~~or guardian~~ of the
8 existence of other, local schools that provide similar services
9 and the services that these other schools provide. This
10 notification shall include without limitation information on
11 school services, school admissions criteria, and school
12 contact information.

13 If the student may be eligible to participate in the
14 Home-Based Support Services Program for Mentally Disabled
15 Adults authorized under the Developmental Disability and
16 Mental Disability Services Act upon becoming an adult, the
17 student's individualized education program shall include plans
18 for (i) determining the student's eligibility for those
19 home-based services, (ii) enrolling the student in the program
20 of home-based services, and (iii) developing a plan for the
21 student's most effective use of the home-based services after
22 the student becomes an adult and no longer receives special
23 educational services under this Article. The plans developed
24 under this paragraph shall include specific actions to be taken
25 by specified individuals, agencies, or officials.

26 (c) In the development of the individualized education
27 program for a student who is functionally blind, it shall be
28 presumed that proficiency in Braille reading and writing is
29 essential for the student's satisfactory educational progress.
30 For purposes of this subsection, the State Board of Education
31 shall determine the criteria for a student to be classified as
32 functionally blind. Students who are not currently identified
33 as functionally blind who are also entitled to Braille
34 instruction include: (i) those whose vision loss is so severe

1 that they are unable to read and write at a level comparable to
2 their peers solely through the use of vision, and (ii) those
3 who show evidence of progressive vision loss that may result in
4 functional blindness. Each student who is functionally blind
5 shall be entitled to Braille reading and writing instruction
6 that is sufficient to enable the student to communicate with
7 the same level of proficiency as other students of comparable
8 ability. Instruction should be provided to the extent that the
9 student is physically and cognitively able to use Braille.
10 Braille instruction may be used in combination with other
11 special education services appropriate to the student's
12 educational needs. The assessment of each student who is
13 functionally blind for the purpose of developing the student's
14 individualized education program shall include documentation
15 of the student's strengths and weaknesses in Braille skills.
16 Each person assisting in the development of the individualized
17 education program for a student who is functionally blind shall
18 receive information describing the benefits of Braille
19 instruction. The individualized education program for each
20 student who is functionally blind shall specify the appropriate
21 learning medium or media based on the assessment report.

22 (d) To the maximum extent appropriate, the placement shall
23 provide the child with the opportunity to be educated with
24 children who are not disabled; provided that children with
25 disabilities who are recommended to be placed into regular
26 education classrooms are provided with supplementary services
27 to assist the children with disabilities to benefit from the
28 regular classroom instruction and are included on the teacher's
29 regular education class register. Subject to the limitation of
30 the preceding sentence, placement in special classes, separate
31 schools or other removal of the disabled child from the regular
32 educational environment shall occur only when the nature of the
33 severity of the disability is such that education in the
34 regular classes with the use of supplementary aids and services

1 cannot be achieved satisfactorily. The placement of limited
2 English proficiency students with disabilities shall be in
3 non-restrictive environments which provide for integration
4 with non-disabled peers in bilingual classrooms. Annually,
5 each January ~~By January 1993 and annually thereafter,~~ school
6 districts shall report data on students from non-English
7 speaking backgrounds receiving special education and related
8 services in public and private facilities as prescribed in
9 Section 2-3.30. If there is a disagreement between parties
10 involved regarding the special education placement of any
11 child, either in-state or out-of-state, the placement is
12 subject to impartial due process procedures described in
13 Article 10 of the Rules and Regulations to Govern the
14 Administration and Operation of Special Education.

15 (e) No child who comes from a home in which a language
16 other than English is the principal language used may be
17 assigned to any class or program under this Article until he
18 has been given, in the principal language used by the child and
19 used in his home, tests reasonably related to his cultural
20 environment. All testing and evaluation materials and
21 procedures utilized for evaluation and placement shall not be
22 linguistically, racially or culturally discriminatory.

23 (f) Nothing in this Article shall be construed to require
24 any child to undergo any physical examination or medical
25 treatment whose parents ~~or guardian~~ object thereto on the
26 grounds that such examination or treatment conflicts with his
27 religious beliefs.

28 (g) School boards or their designee shall provide to the
29 parents ~~or guardian~~ of a child prior written notice of any
30 decision (a) proposing to initiate or change, or (b) refusing
31 to initiate or change, the identification, evaluation, or
32 educational placement of the child or the provision of a free
33 appropriate public education to their child, and the reasons
34 therefor. Such written notification shall also inform the

1 parent ~~or guardian~~ of the opportunity to present complaints
2 with respect to any matter relating to the educational
3 placement of the student, or the provision of a free
4 appropriate public education and to have an impartial due
5 process hearing on the complaint. The notice shall inform the
6 parents ~~or guardian~~ in the parents' ~~or guardian's~~ native
7 language, unless it is clearly not feasible to do so, of their
8 rights and all procedures available pursuant to this Act and
9 federal law 108-142 ~~94-142~~; it shall be the responsibility of
10 the State Superintendent to develop uniform notices setting
11 forth the procedures available under this Act and federal law
12 108-142 ~~94-142~~ to be used by all school boards. The notice
13 shall also inform the parents ~~or guardian~~ of the availability
14 upon request of a list of free or low-cost legal and other
15 relevant services available locally to assist parents ~~or~~
16 ~~guardians~~ in initiating an impartial due process hearing. Any
17 parent ~~or guardian~~ who is deaf, or does not normally
18 communicate using spoken English, who participates in a meeting
19 with a representative of a local educational agency for the
20 purposes of developing an individualized educational program
21 shall be entitled to the services of an interpreter.

22 (h) (Blank). ~~A Level I due process hearing, hereinafter~~
23 ~~referred as the hearing, shall be conducted upon the request of~~
24 ~~the parents or guardian or local school board by an impartial~~
25 ~~hearing officer appointed as follows: If the request is made~~
26 ~~through the local school district, within 5 school days of~~
27 ~~receipt of the request, the local school district shall forward~~
28 ~~the request to the State Superintendent. Within 5 days after~~
29 ~~receiving this request of hearing, the State Board of Education~~
30 ~~shall provide a list of 5 prospective, impartial hearing~~
31 ~~officers. The State Board of Education, by rule or regulation,~~
32 ~~shall establish criteria for determining which persons can be~~
33 ~~included on such a list of prospective hearing officers. No one~~
34 ~~on the list may be a resident of the school district. No more~~

1 ~~than 2 of the 5 prospective hearing officers shall be gainfully~~
2 ~~employed by or administratively connected with any school~~
3 ~~district, or any joint agreement or cooperative program in~~
4 ~~which school districts participate. In addition, no more than 2~~
5 ~~of the 5 prospective hearing officers shall be gainfully~~
6 ~~employed by or administratively connected with private~~
7 ~~providers of special education services. The State Board of~~
8 ~~Education shall actively recruit applicants for hearing~~
9 ~~officer positions. The board and the parents or guardian or~~
10 ~~their legal representatives within 5 days shall alternately~~
11 ~~strike one name from the list until only one name remains. The~~
12 ~~parents or guardian shall have the right to proceed first with~~
13 ~~the striking. The per diem allowance for the hearing officer~~
14 ~~shall be established and paid by the State Board of Education.~~
15 ~~The hearing shall be closed to the public except that the~~
16 ~~parents or guardian may require that the hearing be public. The~~
17 ~~hearing officer shall not be an employee of the school~~
18 ~~district, an employee in any joint agreement or cooperative~~
19 ~~program in which the district participates, or any other agency~~
20 ~~or organization that is directly involved in the diagnosis,~~
21 ~~education or care of the student or the State Board of~~
22 ~~Education. All impartial hearing officers shall be adequately~~
23 ~~trained in federal and state law, rules and regulations and~~
24 ~~case law regarding special education. The State Board of~~
25 ~~Education shall use resources from within and outside the~~
26 ~~agency for the purposes of conducting this training. The~~
27 ~~impartial hearing officer shall have the authority to require~~
28 ~~additional information or evidence where he or she deems it~~
29 ~~necessary to make a complete record and may order an~~
30 ~~independent evaluation of the child, the cost of said~~
31 ~~evaluation to be paid by the local school district. Such~~
32 ~~hearing shall not be considered adversary in nature, but shall~~
33 ~~be directed toward bringing out all facts necessary for the~~
34 ~~impartial hearing officer to render an informed decision. The~~

1 ~~State Board of Education shall, with the advice and approval of~~
2 ~~the Advisory Council on Education of Children with~~
3 ~~Disabilities, promulgate rules and regulations to establish~~
4 ~~the qualifications of the hearing officers and the rules and~~
5 ~~procedure for such hearings. The school district shall present~~
6 ~~evidence that the special education needs of the child have~~
7 ~~been appropriately identified and that the special education~~
8 ~~program and related services proposed to meet the needs of the~~
9 ~~child are adequate, appropriate and available. Any party to the~~
10 ~~hearing shall have the right to: (a) be represented by counsel~~
11 ~~and be accompanied and advised by individuals with special~~
12 ~~knowledge or training with respect to the problems of children~~
13 ~~with disabilities at the party's own expense; (b) present~~
14 ~~evidence and confront and cross examine witnesses; (c)~~
15 ~~prohibit the introduction of any evidence at the hearing that~~
16 ~~has not been disclosed to that party at least 5 days before the~~
17 ~~hearing; (d) obtain a written or electronic verbatim record of~~
18 ~~the hearing; (e) obtain written findings of fact and a written~~
19 ~~decision. The student shall be allowed to attend the hearing~~
20 ~~unless the hearing officer finds that attendance is not in the~~
21 ~~child's best interest or detrimental to the child. The hearing~~
22 ~~officer shall specify in the findings the reasons for denying~~
23 ~~attendance by the student. The hearing officer, or the State~~
24 ~~Superintendent in connection with State level hearings, may~~
25 ~~subpoena and compel the attendance of witnesses and the~~
26 ~~production of evidence reasonably necessary to the resolution~~
27 ~~of the hearing. The subpoena may be issued upon request of any~~
28 ~~party. The State Board of Education and the school board shall~~
29 ~~share equally the costs of providing a written or electronic~~
30 ~~record of the proceedings. Such record shall be transcribed and~~
31 ~~transmitted to the State Superintendent no later than 10 days~~
32 ~~after receipt of notice of appeal. The hearing officer shall~~
33 ~~render a decision and shall submit a copy of the findings of~~
34 ~~fact and decision to the parent or guardian and to the local~~

1 ~~school board within 10 school days after the conclusion of the~~
2 ~~hearing. The hearing officer may continue the hearing in order~~
3 ~~to obtain additional information, and, at the conclusion of the~~
4 ~~hearing, shall issue a decision based on the record which~~
5 ~~specifies the special education and related services which~~
6 ~~shall be provided to the child in accordance with the child's~~
7 ~~needs. The hearing officer's decision shall be binding upon the~~
8 ~~local school board and the parent unless such decision is~~
9 ~~appealed pursuant to the provisions of this Section.~~

10 (i) (Blank). ~~Any party aggrieved by the decision may appeal~~
11 ~~the hearing officer's decision to the State Board of Education~~
12 ~~and shall serve copies of the notice of such appeal on the~~
13 ~~State Superintendent and on all other parties. The review~~
14 ~~referred to in this Section shall be known as the Level II~~
15 ~~review. The State Board of Education shall provide a list of 5~~
16 ~~prospective, impartial reviewing officers. No reviewing~~
17 ~~officer shall be an employee of the State Board of Education or~~
18 ~~gainfully employed by or administratively connected with the~~
19 ~~school district, joint agreement or cooperative program which~~
20 ~~is a party to this review. Each person on the list shall be~~
21 ~~accredited by a national arbitration organization. The per diem~~
22 ~~allowance for the review officers shall be paid by the State~~
23 ~~Board of Education and may not exceed \$250. All reviewing~~
24 ~~officers on the list provided by the State Board of Education~~
25 ~~shall be trained in federal and state law, rules and~~
26 ~~regulations and case law regarding special education. The State~~
27 ~~Board of Education shall use resources from within and outside~~
28 ~~the agency for the purposes of conducting this training. No one~~
29 ~~on the list may be a resident of the school district. The board~~
30 ~~and the parents or guardian or other legal representatives~~
31 ~~within 5 days shall alternately strike one name from the list~~
32 ~~until only one name remains. The parents or guardian shall have~~
33 ~~the right to proceed first with the striking. The reviewing~~
34 ~~officer so selected shall conduct an impartial review of the~~

1 ~~Level I hearing and may issue subpoenas requiring the~~
2 ~~attendance of witnesses at such review. The parties to the~~
3 ~~appeal shall be afforded the opportunity to present oral~~
4 ~~argument and additional evidence at the review. Upon completion~~
5 ~~of the review the reviewing officer shall render a decision and~~
6 ~~shall provide a copy of the decision to all parties.~~

7 (j) (Blank). ~~No later than 30 days after receipt of notice~~
8 ~~of appeal, a final decision shall be reached and a copy mailed~~
9 ~~to each of the parties. A reviewing officer may grant specific~~
10 ~~extensions of time beyond the 30-day deadline at the request of~~
11 ~~either party. If a Level II hearing is convened the final~~
12 ~~decision of a Level II hearing officer shall occur no more than~~
13 ~~30 days following receipt of a notice of appeal, unless an~~
14 ~~extension of time is granted by the hearing officer at the~~
15 ~~request of either party. The State Board of Education shall~~
16 ~~establish rules and regulations delineating the standards to be~~
17 ~~used in determining whether the reviewing officer shall grant~~
18 ~~such extensions. Each hearing and each review involving oral~~
19 ~~argument must be conducted at a time and place which are~~
20 ~~reasonably convenient to the parents and the child involved.~~

21 (k) (Blank). ~~Any party aggrieved by the decision of the~~
22 ~~reviewing officer, including the parent or guardian, shall have~~
23 ~~the right to bring a civil action with respect to the complaint~~
24 ~~presented pursuant to this Section, which action may be brought~~
25 ~~in any circuit court of competent jurisdiction within 120 days~~
26 ~~after a copy of the decision is mailed to the party as provided~~
27 ~~in subsection (j). The civil action provided above shall not be~~
28 ~~exclusive of any rights or causes of action otherwise~~
29 ~~available. The commencement of a civil action under subsection~~
30 ~~(k) of this Section shall operate as a supersedeas. In any~~
31 ~~action brought under this Section the court shall receive the~~
32 ~~records of the administrative proceedings, shall hear~~
33 ~~additional evidence at the request of a party, and basing its~~
34 ~~decision on the preponderance of the evidence shall grant such~~

1 ~~relief as the court determines is appropriate. In any instance~~
2 ~~where a school district willfully disregards applicable~~
3 ~~regulations or statutes regarding a child covered by this~~
4 ~~Article, and which disregard has been detrimental to the child,~~
5 ~~the school district shall be liable for any reasonable~~
6 ~~attorney's fees incurred by the parent or guardian in~~
7 ~~connection with proceedings under this Section.~~

8 (l) (Blank). ~~During the pendency of any proceedings~~
9 ~~conducted pursuant to this Section, unless the State~~
10 ~~Superintendent of Education, or the school district and the~~
11 ~~parents or guardian otherwise agree, the student shall remain~~
12 ~~in the then current educational placement of such student, or~~
13 ~~if applying for initial admission to the school district,~~
14 ~~shall, with the consent of the parents or guardian, be placed~~
15 ~~in the school district program until all such proceedings have~~
16 ~~been completed. The costs for any special education and related~~
17 ~~services or placement incurred following 60 school days after~~
18 ~~the initial request for evaluation shall be borne by the school~~
19 ~~district if such services or placement are in accordance with~~
20 ~~the final determination as to the special education and related~~
21 ~~services or placement which must be provided to the child,~~
22 ~~provided however that in said 60 day period there have been no~~
23 ~~delays caused by the child's parent or guardian.~~

24 (m) (Blank). ~~Whenever (i) the parents or guardian of a~~
25 ~~child of the type described in Section 14 1.02 are not known or~~
26 ~~are unavailable or (ii) the child is a ward of the State~~
27 ~~residing in a residential facility, a person shall be assigned~~
28 ~~to serve as surrogate parent for the child in matters relating~~
29 ~~to the identification, evaluation, and educational placement~~
30 ~~of the child and the provision of a free appropriate public~~
31 ~~education to the child. Surrogate parents shall be assigned by~~
32 ~~the State Superintendent of Education. The State Board of~~
33 ~~Education shall promulgate rules and regulations establishing~~
34 ~~qualifications of such persons and their responsibilities and~~

1 ~~the procedures to be followed in making such assignments. Such~~
2 ~~surrogate parents shall not be employees of the school~~
3 ~~district, an agency created by joint agreement under Section~~
4 ~~10-22.31, an agency involved in the education or care of the~~
5 ~~student, or the State Board of Education. For a child who is a~~
6 ~~ward of the State residing in a residential facility, the~~
7 ~~surrogate parent may be an employee of a nonpublic agency that~~
8 ~~provides only non educational care. Services of any person~~
9 ~~assigned as surrogate parent shall terminate if the parent or~~
10 ~~guardian becomes available unless otherwise requested by the~~
11 ~~parents or guardian. The assignment of a person as surrogate~~
12 ~~parent at no time supersedes, terminates, or suspends the~~
13 ~~parents' or guardian's legal authority relative to the child.~~
14 ~~Any person participating in good faith as surrogate parent on~~
15 ~~behalf of the child before school officials or a hearing~~
16 ~~officer shall have immunity from civil or criminal liability~~
17 ~~that otherwise might result by reason of such participation,~~
18 ~~except in cases of willful and wanton misconduct.~~

19 (n) (Blank). ~~At all stages of the hearing the hearing~~
20 ~~officer shall require that interpreters be made available by~~
21 ~~the local school district for persons who are deaf or for~~
22 ~~persons whose normally spoken language is other than English.~~

23 (o) (Blank). ~~Whenever a person refuses to comply with any~~
24 ~~subpoena issued under this Section, the circuit court of the~~
25 ~~county in which such hearing is pending, on application of the~~
26 ~~State Superintendent of Education or the party who requested~~
27 ~~issuance of the subpoena may compel obedience by attachment~~
28 ~~proceedings as for contempt, as in a case of disobedience of~~
29 ~~the requirements of a subpoena from such court for refusal to~~
30 ~~testify therein.~~

31 (Source: P.A. 93-282, eff. 7-22-03; 94-376, eff. 7-29-05.)

32 (105 ILCS 5/14-8.02a)

33 Sec. 14-8.02a. Impartial due process hearing; civil

1 action.

2 (a) This Section ~~(rather than the impartial due process~~
3 ~~procedures of subsections (h) through (o) of Section 14-8.02,~~
4 ~~which shall continue to apply only to those impartial due~~
5 ~~process hearings that are requested under this Article before~~
6 ~~July 1, 1997)~~ shall apply to all impartial due process hearings
7 requested on or after July 1, 2005 ~~1997~~. Impartial due process
8 hearings requested before July 1, 2005 shall be governed by the
9 rules described in Public Act 89-652.

10 (a-5) For purposes of this Section and Section 14-8.02b of
11 this Code, days shall be computed in accordance with Section
12 1.11 of the Statute on Statutes.

13 (b) The State Board of Education shall establish an
14 impartial due process hearing system, ~~including a corps of~~
15 ~~hearing officers,~~ in accordance with this Section and may
16 ~~shall,~~ with the advice and approval of the Advisory Council on
17 Education of Children with Disabilities, promulgate rules and
18 regulations consistent with this Section to establish ~~the~~
19 ~~qualifications of hearing officers and the rules and procedures~~
20 ~~for due process hearings. The State Board of Education shall~~
21 ~~recruit candidates for due process hearing officers who meet~~
22 ~~the criteria set forth in this Section. Candidates shall be~~
23 ~~screened by a 7-member Screening Committee consisting of the~~
24 ~~following: the Attorney General, or his or her designee; the~~
25 ~~State Superintendent of Education, or his or her designee; 3~~
26 ~~members appointed by the State Superintendent of Education, one~~
27 ~~of whom shall be a parent of a student eligible for special~~
28 ~~education, another of whom shall be a director of special~~
29 ~~education for an Illinois school district or special education~~
30 ~~joint agreement, and the other of whom shall be an adult with a~~
31 ~~disability; and 2 members appointed by the Attorney General,~~
32 ~~one of whom shall be a parent of a student eligible for special~~
33 ~~education and the other of whom shall be an experienced special~~
34 ~~education hearing officer who is not a candidate for~~

1 ~~appointment under this Section. The members of the Screening~~
2 ~~Committee shall be appointed no later than 60 days following~~
3 ~~the effective date of this amendatory Act of 1996. The~~
4 ~~chairperson of the Advisory Council on Education of Children~~
5 ~~with Disabilities or his or her designee shall serve on the~~
6 ~~Screening Committee as an ex officio non voting member. Three~~
7 ~~members of the Screening Committee shall be appointed for~~
8 ~~initial terms of 2 years, and 4 members shall be appointed for~~
9 ~~initial terms of 3 years, by using a lottery system. Subsequent~~
10 ~~appointments and reappointments shall be for terms for 3 years.~~
11 ~~The Screening Committee shall elect a chairperson from among~~
12 ~~its voting members. Members of the Screening Committee shall~~
13 ~~serve without compensation but shall be reimbursed by the State~~
14 ~~Board of Education for their expenses. The Screening Committee~~
15 ~~shall review applications and supporting information,~~
16 ~~interview candidates, and recommend applicants to the Advisory~~
17 ~~Council on Education of Children with Disabilities based upon~~
18 ~~objective criteria it develops and makes available to the~~
19 ~~public. The number of candidates recommended shall equal 150%~~
20 ~~of the number deemed necessary by the State Board of Education.~~

21 (c) (Blank). ~~The application process shall require each~~
22 ~~applicant to provide a comprehensive disclosure of his or her~~
23 ~~professional background and work experience. Applicants must~~
24 ~~hold at least a masters level degree, a juris doctor degree, or~~
25 ~~a bachelors degree with relevant experience. Current employees~~
26 ~~of the State Board of Education, local school districts,~~
27 ~~special education cooperatives, regional service areas or~~
28 ~~centers, regional educational cooperatives, state operated~~
29 ~~elementary and secondary schools, or private providers of~~
30 ~~special education facilities or programs shall be disqualified~~
31 ~~from serving as impartial due process hearing officers. Nothing~~
32 ~~in this Section shall be construed to prohibit retired school~~
33 ~~personnel and part-time contractual school personnel who serve~~
34 ~~in a consulting capacity from serving as hearing officers.~~

1 ~~Applications by individuals on the State Board of Education's~~
2 ~~list of eligible Level I due process hearing officers or Level~~
3 ~~II review officers when the initial recruitment of due process~~
4 ~~hearing officers is conducted under this Section shall be~~
5 ~~considered if they meet the qualifications under this~~
6 ~~subsection.~~

7 (d) (Blank). ~~The State Board of Education shall, through a~~
8 ~~competitive application process, enter into a contract with an~~
9 ~~outside entity to establish and conduct mandatory training~~
10 ~~programs for impartial due process hearing officers and an~~
11 ~~annual evaluation of each impartial due process hearing officer~~
12 ~~that shall include a written evaluation report. The invitation~~
13 ~~for applications shall set forth minimum qualifications for~~
14 ~~eligible applicants. Each contract under this subsection may be~~
15 ~~renewed on an annual basis subject to appropriations. The State~~
16 ~~Board of Education shall conduct a new competitive application~~
17 ~~process at least once every 3 years after the initial contract~~
18 ~~is granted. The Screening Committee established pursuant to~~
19 ~~subsection (b) of this Section shall review the training~~
20 ~~proposals and forward them, with recommendations in rank order,~~
21 ~~to the State Board of Education. All impartial hearing officer~~
22 ~~candidates recommended to the Advisory Council on Education of~~
23 ~~Children with Disabilities shall successfully complete initial~~
24 ~~and all follow up trainings, as established by the contract~~
25 ~~between the State Board of Education and the training entity,~~
26 ~~in order to be eligible to serve as an impartial due process~~
27 ~~hearing officer. The training curriculum shall include, at a~~
28 ~~minimum, instruction in federal and State law, rules, and~~
29 ~~regulations, federal regulatory interpretations and court~~
30 ~~decisions regarding special education and relevant general~~
31 ~~education issues, diagnostic procedures, information about~~
32 ~~disabilities, and techniques for conducting effective and~~
33 ~~impartial hearings, including order of presentation. The~~
34 ~~training shall be conducted in an unbiased manner by education~~

1 ~~and legal experts, including qualified individuals from~~
2 ~~outside the public education system. Upon the completion of~~
3 ~~initial impartial due process hearing officer training, the~~
4 ~~Advisory Council on Education of Children with Disabilities,~~
5 ~~applying objective selection criteria it has developed and made~~
6 ~~available to the public, shall go into executive session and~~
7 ~~select the number of active impartial due process hearing~~
8 ~~officers deemed necessary by the State Board of Education from~~
9 ~~those candidates who have successfully completed the initial~~
10 ~~training. Fifty percent of the impartial due process hearing~~
11 ~~officers appointed shall serve initial terms of 2 years, and~~
12 ~~the remaining 50% shall serve initial terms of one year, such~~
13 ~~terms to be determined by using a lottery system. After the~~
14 ~~initial term all reappointments shall be for a term of 2 years.~~
15 ~~The Screening Committee, based on its objective selection~~
16 ~~criteria and the annual evaluation reports prepared by the~~
17 ~~training entity, shall recommend whether the hearing officers~~
18 ~~whose terms are expiring should be reappointed and shall~~
19 ~~transmit its recommendations to the State Board of Education.~~
20 ~~If, at any time, the State Board of Education, with the advice~~
21 ~~of the Advisory Council on Education of Children with~~
22 ~~Disabilities, determines that additional hearing officers are~~
23 ~~needed, the hearing officer selection process described in this~~
24 ~~Section shall be reopened to select the number of additional~~
25 ~~hearing officers deemed necessary by the State Board of~~
26 ~~Education.~~

27 ~~Impartial due process hearing officers shall receive a base~~
28 ~~annual stipend and per diem allowance for each hearing at a~~
29 ~~rate established by the State Board of Education.~~

30 ~~The State Board of Education shall provide impartial due~~
31 ~~process hearing officers with access to relevant court~~
32 ~~decisions, impartial hearing officer decisions with~~
33 ~~child specific identifying information deleted, statutory and~~
34 ~~regulatory changes, and federal regulatory interpretations.~~

1 ~~The State Board of Education shall index and maintain a~~
2 ~~reporting system of impartial due process hearing decisions and~~
3 ~~shall make such decisions available for review by the public~~
4 ~~after deleting child specific identifying information.~~

5 (e) (Blank). ~~An impartial due process hearing officer shall~~
6 ~~be terminated by the State Board of Education for just cause~~
7 ~~if, after written notice is provided, appropriate timely~~
8 ~~corrective action is not taken. For purposes of this subsection~~
9 ~~just cause shall be (1) failure or refusal to accept assigned~~
10 ~~eases without good cause; (2) failure or refusal to fulfill~~
11 ~~duties as a hearing officer in a timely manner; (3) consistent~~
12 ~~disregard for applicable laws and regulations in the conduct of~~
13 ~~hearings; (4) consistent failure to conduct himself or herself~~
14 ~~in a patient, dignified, and courteous manner to parties,~~
15 ~~witnesses, counsel, and other participants in hearings; (5)~~
16 ~~failure to accord parties or their representatives a full and~~
17 ~~fair opportunity to be heard in matters coming before him or~~
18 ~~her; (6) violating applicable laws regarding privacy and~~
19 ~~confidentiality of records or information; (7) manifesting, by~~
20 ~~words or conduct, bias or prejudice based upon race, sex,~~
21 ~~religion, disability, or national origin; (8) failure to recuse~~
22 ~~himself or herself from a hearing in which he or she has a~~
23 ~~personal, professional, or financial conflict of interest~~
24 ~~which he or she knew or should have known existed at any time~~
25 ~~prior to or during the hearing; (9) conviction in any~~
26 ~~jurisdiction of any felony or of a misdemeanor involving moral~~
27 ~~turpitude; and (10) falsification of a material fact on his or~~
28 ~~her application to serve as a due process hearing officer. In~~
29 ~~addition, an impartial hearing officer who, as a result of~~
30 ~~events occurring after appointment, no longer meets the minimum~~
31 ~~requirements set forth in this Section, shall be disqualified~~
32 ~~to complete the balance of his or her contract term.~~

33 ~~The State Board of Education shall monitor, review, and~~
34 ~~evaluate the impartial due process hearing system on a regular~~

1 ~~basis by a process that includes a review of written decisions~~
2 ~~and evaluations by participants in impartial due process~~
3 ~~hearings and their representatives. The State Board of~~
4 ~~Education shall prepare an annual written report no later than~~
5 ~~July 1 of each year, beginning in 1998, evaluating the~~
6 ~~impartial due process hearing system. The reports shall be~~
7 ~~submitted to the members of the State Board of Education, the~~
8 ~~State Superintendent of Education, the Advisory Council on~~
9 ~~Education of Children with Disabilities, and the Screening~~
10 ~~Committee and shall be made available to the public.~~

11 ~~The training entity under subsection (d) shall conduct~~
12 ~~annual evaluations of each hearing officer and shall prepare~~
13 ~~written evaluation reports to be provided to the Screening~~
14 ~~Committee for its consideration in the reappointment process.~~
15 ~~The evaluation process shall include a review of written~~
16 ~~decisions and evaluations by participants in impartial due~~
17 ~~process hearings and their representatives. Each hearing~~
18 ~~officer shall be provided with a copy of his or her evaluation~~
19 ~~report and shall have an opportunity to review the report with~~
20 ~~the training entity and submit written comments.~~

21 (f) An impartial due process hearing shall be convened upon
22 the request of a parent ~~or guardian~~, student if at least 18
23 years of age or emancipated, or a school district. A school
24 district shall make a request in writing to the State Board of
25 Education and promptly mail a copy of the request to the
26 parents or ~~or guardian of the~~ student (if at least 18 years of
27 age or emancipated) at the parent's or student's ~~their~~ last
28 known address. A request made by the parent or student shall be
29 made in writing to the superintendent of the school district
30 where the student resides. The superintendent shall forward the
31 request to the State Board of Education within 5 days after
32 receipt of the request. The request shall be filed no more than
33 2 years following the date the person or school district knew
34 or should have known of the event or events forming the basis

1 for the request. The request shall, at a minimum, contain all
2 of the following:

3 (1) The name of the student, the address of the
4 student's residence, and the name of the school the student
5 is attending.

6 (2) In the case of homeless children (as defined under
7 the federal McKinney-Vento Homeless Assistance Act (42
8 U.S.C. 11434a(2)), available contact information for the
9 student and the name of the school the student is
10 attending.

11 (3) A description of the nature of the problem relating
12 to the actual or proposed placement, identification,
13 services, or evaluation of the student, including facts
14 relating to the problem.

15 (4) A proposed resolution of the problem to the extent
16 known and available to the party at the time.

17 ~~A request made by the parent, guardian, or student shall be~~
18 ~~made in writing to the superintendent of the school district in~~
19 ~~which the student resides, who shall forward the request to the~~
20 ~~State Board of Education within 5 days of receipt of the~~
21 ~~request.~~

22 (f-5) Within 3 5 days after receipt of the hearing request,
23 the State Board of Education shall appoint a due process
24 hearing officer using a rotating appointment system and shall
25 notify the hearing officer of his or her appointment.

26 For a school district other than a school district located
27 in a municipality having a population exceeding 500,000, a
28 hearing officer who is a current resident of the school
29 district, special education cooperative, or other public
30 entity involved in the hearing shall recuse himself or herself.
31 A hearing officer who is a former employee of the school
32 district, special education cooperative, or other public
33 entity involved in the hearing shall immediately disclose the
34 former employment to the parties and shall recuse himself or

1 herself, unless the parties otherwise agree in writing. ~~No~~
2 ~~person who is an employee of a school district that is involved~~
3 ~~in the education or care of the student shall conduct the~~
4 ~~hearing.~~ A hearing officer having a personal or professional
5 interest that may ~~would~~ conflict with his or her objectivity in
6 the hearing shall disclose the conflict to the parties and
7 shall recuse himself or herself unless the parties otherwise
8 agree in writing ~~so notify the State Board of Education and~~
9 ~~shall be replaced by the next scheduled impartial due process~~
10 ~~hearing officer under the rotation system.~~ For purposes of this
11 subsection an assigned hearing officer shall be considered to
12 have a conflict of interest if, at any time prior to the
13 issuance of his or her written decision, he or she knows or
14 should know that he or she may receive remuneration from a
15 party to the hearing within 3 years following the conclusion of
16 the due process hearing.

17 A party to a due process hearing shall be permitted one
18 substitution of hearing officer as a matter of right, in
19 accordance with procedures established by the rules adopted by
20 the State Board of Education under this Section. The State
21 Board of Education shall randomly select and appoint another
22 hearing officer within 3 ~~5~~ days after receiving notice that the
23 appointed hearing officer is ineligible to serve or upon
24 receiving a proper request for substitution of hearing officer.
25 If a party withdraws its request for a due process hearing
26 after a hearing officer has been appointed, that hearing
27 officer shall retain jurisdiction over a subsequent hearing
28 that involves the same parties and is requested within one year
29 from the date of withdrawal of the previous request, unless
30 that hearing officer is unavailable.

31 ~~A former employee or current resident of the school~~
32 ~~district, special education cooperative, or other public~~
33 ~~entity involved in the due process hearing shall recuse himself~~
34 ~~or herself. A hearing officer shall disclose any actual or~~

1 ~~potential conflicts of interests to the parties upon learning~~
2 ~~of those conflicts.~~ Any party may raise facts that constitute a
3 conflict of interest for the hearing officer at any time before
4 or during the hearing and may move for recusal.

5 ~~For purposes of this Section, "days" shall be computed in~~
6 ~~accordance with Section 1.11 of the Statute on Statutes.~~

7 (g) Impartial due process hearings shall be conducted
8 pursuant to this Section and any rules and regulations
9 promulgated by the State Board of Education consistent with
10 this Section and other governing laws and regulations. The
11 hearing shall address only those issues properly raised in the
12 hearing request under subsection (f) of this Section. The
13 hearing shall be closed to the public unless the parents ~~or~~
14 ~~guardian~~ request that the hearing be open to the public. The
15 parents ~~or guardian~~ involved in the hearing shall have the
16 right to have the student who is the subject of the hearing
17 present. The hearing shall be held at a time and place which
18 are reasonably convenient to the parties involved. Upon the
19 request of a party, the hearing officer shall hold the hearing
20 at a location neutral to the parties if the hearing officer
21 determines that there is no cost for securing the use of the
22 neutral location. Once appointed, the impartial due process
23 hearing officer shall not communicate with the State Board of
24 Education or its employees concerning the hearing, except that,
25 where circumstances require, communications for administrative
26 purposes that do not deal with substantive or procedural
27 matters or issues on the merits are authorized, provided that
28 the hearing officer promptly notifies all parties of the
29 substance of the communication as a matter of record.

30 (g-5) Unless the school district has previously provided
31 prior written notice to the parent or student (if at least 18
32 years of age or emancipated) regarding the subject matter of
33 the hearing request, the school district shall, within 10 days
34 after receiving a hearing request initiated by a parent or

1 student (if at least 18 years of age or emancipated), provide a
2 written response to the request that shall include all of the
3 following:

4 (1) An explanation of why the school district proposed
5 or refused to take the action or actions described in the
6 hearing request.

7 (2) A description of other options the IEP team
8 considered and the reasons why those options were rejected.

9 (3) A description of each evaluation procedure,
10 assessment, record, report, or other evidence the school
11 district used as the basis for the proposed or refused
12 action or actions.

13 (4) A description of the factors that are or were
14 relevant to the school district's proposed or refused
15 action or actions.

16 (g-10) When the hearing request has been initiated by a
17 school district, within 10 days after receiving the request,
18 the parent or student (if at least 18 years of age or
19 emancipated) shall provide the school district with a response
20 that specifically addresses the issues raised in the school
21 district's hearing request. The parent's or student's response
22 shall be provided in writing, unless he or she is illiterate or
23 has a disability that prevents him or her from providing a
24 written response. The parent's or student's response may be
25 provided in his or her native language, if other than English.
26 In the event that illiteracy or another disabling condition
27 prevents the parent or student from providing a written
28 response, the school district shall assist the parent or
29 student in providing the written response.

30 (g-15) Within 15 days after receiving notice of the hearing
31 request, the non-requesting party may challenge the
32 sufficiency of the request by submitting its challenge in
33 writing to the hearing officer. Within 5 days after receiving
34 the challenge to the sufficiency of the request, the hearing

1 officer shall issue a determination of the challenge in writing
2 to the parties. In the event that the hearing officer upholds
3 the challenge, the party who requested the hearing may, with
4 the consent of the non-requesting party or with leave of the
5 hearing officer, file an amended request. An amended request
6 shall be filed by the date determined by the hearing officer,
7 but in no event any later than 5 days prior to the date of the
8 hearing. If the amended request raises issues that were not
9 part of the initial request, the parties shall be permitted to
10 re-initiate the resolution meeting described in subsection
11 (g-20) of this Section or State-sponsored mediation in place of
12 the resolution meeting, as described in subsection (g-25) of
13 this Section.

14 (g-20) Within 15 days after receiving a request for a
15 hearing from a parent or student (if at least 18 years of age
16 or emancipated) or, in the event that the school district
17 requests a hearing, within 15 days after initiating the
18 request, the school district shall convene a resolution meeting
19 with the parent and relevant members of the IEP team who have
20 specific knowledge of the facts contained in the request for
21 the purpose of resolving the problem that resulted in the
22 request. The resolution meeting shall include a representative
23 of the school district who has decision-making authority on
24 behalf of the school district. Unless the parent is accompanied
25 by an attorney at the resolution meeting, the school district
26 may not include an attorney representing the school district.

27 The resolution meeting may not be waived unless agreed to
28 in writing by the school district and the parent or student (if
29 at least 18 years of age or emancipated) or the parent or
30 student (if at least 18 years of age or emancipated) and the
31 school district agree in writing to utilize mediation in place
32 of the resolution meeting. If either party fails to cooperate
33 in the scheduling or convening of the resolution meeting, the
34 hearing officer may order an extension of the timeline for

1 completion of the resolution meeting or, upon the motion of a
2 party, order the dismissal of the hearing request or the
3 granting of all relief set forth in the request, as
4 appropriate.

5 In the event that the school district and the parent or
6 student (if at least 18 years of age or emancipated) agree to a
7 resolution of the problem that resulted in the hearing request,
8 the terms of the resolution shall be committed to writing and
9 signed by the parent or student (if at least 18 years of age or
10 emancipated) and the representative of the school district with
11 decision-making authority. The agreement shall be legally
12 binding and shall be enforceable in any State or federal court
13 of competent jurisdiction. In the event that the parties
14 utilize the resolution meeting process, the resolution meeting
15 shall continue until no later than the 30th day following the
16 receipt of the hearing request by the non-requesting party (or
17 as properly extended by order of the hearing officer) to
18 resolve the issues underlying the request, at which time the
19 timeline for completion of the impartial due process hearing
20 shall commence. The State Board of Education may, by rule,
21 establish additional procedures for the conduct of resolution
22 meetings.

23 (g-25) If mutually agreed to in writing, the parties to a
24 hearing request may request State-sponsored mediation as a
25 substitute for the resolution meeting described in subsection
26 (g-20) of this Section or may utilize mediation at the close of
27 the resolution meeting if all issues underlying the hearing
28 request have not been resolved through the resolution meeting.

29 (g-30) If mutually agreed to in writing, the parties to a
30 hearing request may waive the resolution meeting described in
31 subsection (g-20) of this Section. Upon signing a written
32 agreement to waive the resolution meeting, the parties shall be
33 required to forward the written waiver to the hearing officer
34 appointed to the case within 2 business days following the

1 signing of the waiver by the parties. The timeline for the
2 impartial due process hearing shall commence on the date of the
3 signing of the waiver by the parties.

4 (g-35) The timeline for completing the impartial due
5 process hearing, as set forth in subsection (h) of this
6 Section, shall be initiated upon the occurrence of any one of
7 the following events:

8 (1) The unsuccessful completion of the resolution
9 meeting as described in subsection (g-20) of this Section.

10 (2) The mutual agreement of the parties to waive the
11 resolution meeting as described in subsection (g-25) or
12 (g-30) of this Section.

13 (g-40) The hearing officer shall convene a prehearing
14 conference no later than 14 days before the scheduled date for
15 the due process hearing for the general purpose of aiding in
16 the fair, orderly, and expeditious conduct of the hearing. The
17 hearing officer shall provide the parties with written notice
18 of the prehearing conference at least 7 ~~10~~ days in advance of
19 the conference. The written notice shall require the parties to
20 notify the hearing officer by a date certain whether they
21 intend to participate in the prehearing conference. The hearing
22 officer may conduct the prehearing conference in person or by
23 telephone. Each party shall ~~disclose~~ at the prehearing
24 conference (1) disclose whether it is represented by legal
25 counsel or intends to retain legal counsel; (2) clarify ~~the~~
26 matters it believes to be in dispute in the case and the
27 specific relief being sought; (3) disclose whether there are
28 any additional evaluations for the student that it intends to
29 introduce into the hearing record that have not been previously
30 disclosed to the other parties; (4) disclose a list of all
31 documents it intends to introduce into the hearing record,
32 including the date and a brief description of each document;
33 and (5) disclose the names of all witnesses it intends to call
34 to testify at the hearing. The hearing officer shall specify

1 the order of presentation to be used at the hearing. If the
2 prehearing conference is held by telephone, the parties shall
3 transmit the information required in this paragraph in such a
4 manner that it is available to all parties at the time of the
5 prehearing conference. The State Board of Education ~~may~~ shall,
6 by rule, establish additional procedures for the conduct of
7 prehearing conferences.

8 (g-45) The impartial due process hearing officer shall not
9 initiate or participate in any ex parte communications with the
10 parties, except to arrange the date, time, and location of the
11 prehearing conference, ~~and~~ due process hearing, or other status
12 conferences convened at the discretion of the hearing officer
13 and to receive confirmation of whether a party intends to
14 participate in the prehearing conference.

15 (g-50) The parties shall disclose and provide to each other
16 any evidence which they intend to submit into the hearing
17 record no later than 5 days before the hearing. Any party to a
18 hearing has the right to prohibit the introduction of any
19 evidence at the hearing that has not been disclosed to that
20 party at least 5 days before the hearing. The party requesting
21 a hearing shall not be permitted at the hearing to raise issues
22 that were not raised in the party's initial or amended request,
23 unless otherwise permitted in this Section.

24 (g-55) The length of the hearing must not exceed 5 days
25 unless good cause is shown. When scheduling hearing dates, the
26 hearing officer shall schedule the final day of the hearing no
27 more than 30 calendar days after the first day of the hearing
28 unless good cause is shown. The school district shall present
29 evidence that the special education needs of the child have
30 been appropriately identified and that the special education
31 program and related services proposed to meet the needs of the
32 child are adequate, appropriate, and available. Any party to
33 the hearing shall have the right to (1) be represented by
34 counsel and be accompanied and advised by individuals with

1 special knowledge or training with respect to the problems of
2 children with disabilities, at the party's own expense; (2)
3 present evidence and confront and cross-examine witnesses; (3)
4 move for the exclusion of witnesses from the hearing until they
5 are called to testify, provided, however, that this provision
6 may not be invoked to exclude the individual designated by a
7 party to assist that party or its representative in the
8 presentation of the case; (4) obtain a written or electronic
9 verbatim record of the proceedings within 30 days of receipt of
10 a written request from the parents by the school district; and
11 (5) obtain a written decision, including findings of fact and
12 conclusions of law, within 10 days after the conclusion of the
13 hearing. If at issue, the school district shall present
14 evidence that it has properly identified and evaluated the
15 nature and severity of the student's suspected or identified
16 disability and that, if the student has been or should have
17 been determined eligible for special education and related
18 services, that it is providing or has offered a free
19 appropriate public education to the student in the least
20 restrictive environment, consistent with procedural safeguards
21 and in accordance with an individualized educational program.
22 At any time prior to the conclusion of the hearing, the
23 impartial due process hearing officer shall have the authority
24 to require additional information and order independent
25 evaluations for the student at the expense of the school
26 district. The State Board of Education and the school district
27 shall share equally the costs of providing a written or
28 electronic verbatim record of the proceedings. Any party may
29 request that the due process hearing officer issue a subpoena
30 to compel the testimony of witnesses or the production of
31 documents relevant to the resolution of the hearing. Whenever a
32 person refuses to comply with any subpoena issued under this
33 Section, the circuit court of the county in which that hearing
34 is pending, on application of the impartial hearing officer or

1 the party requesting the issuance of the subpoena, may compel
2 compliance through the contempt powers of the court in the same
3 manner as if the requirements of a subpoena issued by the court
4 had been disobeyed.

5 (h) The impartial hearing officer shall issue a written
6 decision, including findings of fact and conclusions of law,
7 within 10 days after the conclusion of the hearing and mail a
8 copy of the decision to the parents, ~~guardian,~~ or student (if
9 the student requests the hearing), the school district, the
10 director of special education, legal representatives of the
11 parties, and the State Board of Education. Unless the hearing
12 officer has granted specific extensions of time at the request
13 of a party, a final decision, including the clarification of a
14 decision requested under this subsection, shall be reached and
15 mailed to the parties named above not later than 45 days after
16 the initiation of the timeline for conducting the hearing, as
17 described in subsection (q-35) of this Section ~~request for~~
18 ~~hearing is received by the school district, public agency, or~~
19 ~~the State Board of Education, whichever is sooner.~~ The decision
20 shall specify the educational and related services that shall
21 be provided to the student in accordance with the student's
22 needs and the timeline for which the school district shall
23 submit evidence to the State Board of Education to demonstrate
24 compliance with the hearing officer's decision in the event
25 that the decision orders the school district to undertake
26 corrective action. The hearing officer shall retain
27 jurisdiction for the sole purpose of considering a request for
28 clarification of the final decision submitted in writing by a
29 party to the impartial hearing officer within 5 days after
30 receipt of the decision. A copy of the request for
31 clarification shall specify the portions of the decision for
32 which clarification is sought and shall be mailed to all
33 parties of record and to the State Board of Education. The
34 request shall operate to stay implementation of those portions

1 of the decision for which clarification is sought, pending
2 action on the request by the hearing officer, unless the
3 parties otherwise agree. The hearing officer shall issue a
4 clarification of the specified portion of the decision or issue
5 a partial or full denial of the request in writing within 10
6 days of receipt of the request and mail copies to all parties
7 to whom the decision was mailed. This subsection does not
8 permit a party to request, or authorize a hearing officer to
9 entertain, reconsideration of the decision itself. The statute
10 of limitations for seeking review of the decision shall be
11 tolled from the date the request is submitted until the date
12 the hearing officer acts upon the request. ~~Upon the filing of a~~
13 ~~civil action pursuant to subsection (i) of this Section, the~~
14 ~~hearing officer shall no longer exercise jurisdiction over the~~
15 ~~case.~~ The hearing officer's decision shall be binding upon the
16 school district and the parents ~~or guardian~~ unless a civil
17 action is commenced.

18 (i) Any party to an impartial due process hearing aggrieved
19 by the final written decision of the impartial due process
20 hearing officer shall have the right to commence a civil action
21 with respect to the issues presented in the impartial due
22 process hearing. That civil action shall be brought in any
23 court of competent jurisdiction within 90 ~~120~~ days after a copy
24 of the decision of the impartial due process hearing officer is
25 mailed to the party as provided in subsection (h). The civil
26 action authorized by this subsection shall not be exclusive of
27 any rights or causes of action otherwise available. The
28 commencement of a civil action under this subsection shall
29 operate as a supersedeas. In any action brought under this
30 subsection the Court shall receive the records of the impartial
31 due process hearing, shall hear additional evidence at the
32 request of a party, and, basing its decision on the
33 preponderance of the evidence, shall grant such relief as the
34 court determines is appropriate. In any instance where a school

1 district willfully disregards applicable regulations or
2 statutes regarding a child covered by this Article, and which
3 disregard has been detrimental to the child, the school
4 district shall be liable for any reasonable attorney's fees
5 incurred by the parent ~~or guardian~~ in connection with
6 proceedings under this Section.

7 (j) During the pendency of any administrative or judicial
8 proceeding conducted pursuant to this Section, unless the
9 school district and the parents or ~~or guardian of the~~ student
10 (if at least 18 years of age or emancipated) otherwise agree,
11 the student shall remain in his or her present educational
12 placement and continue in his or her present eligibility status
13 and special education and related services, if any. If the
14 hearing officer orders a change in the eligibility status,
15 educational placement, or special education and related
16 services of the student, that change shall not be implemented
17 until 30 days have elapsed following the date the hearing
18 officer's decision is mailed to the parties in order to allow
19 any party aggrieved by the decision to commence a civil action
20 to stay implementation of the decision. If applying for initial
21 admission to the school district, the student shall, with the
22 consent of the parents (if the student is not at least 18 years
23 of age or emancipated) ~~or guardian~~, be placed in the school
24 district program until all such proceedings have been
25 completed. The costs for any special education and related
26 services or placement incurred following 60 school days after
27 the initial request for evaluation shall be borne by the school
28 district if the services or placement is in accordance with the
29 final determination as to the special education and related
30 services or placement that must be provided to the child,
31 provided that during that 60 day period there have been no
32 delays caused by the child's parent ~~or guardian~~.

33 (k) Whenever the parents ~~or guardian~~ of a child of the type
34 described in Section 14-1.02 are not known, are unavailable, or

1 the child is a ward of the State, a person shall be assigned to
2 serve as surrogate parent for the child in matters relating to
3 the identification, evaluation, and educational placement of
4 the child and the provision of a free appropriate public
5 education to the child. Persons shall be assigned as surrogate
6 parents by the State Superintendent of Education. The State
7 Board of Education shall promulgate rules and regulations
8 establishing qualifications of those persons and their
9 responsibilities and the procedures to be followed in making
10 assignments of persons as surrogate parents. Surrogate parents
11 shall not be employees of the school district, an agency
12 created by joint agreement under Section 10-22.31, an agency
13 involved in the education or care of the student, or the State
14 Board of Education. Services of any person assigned as
15 surrogate parent shall terminate if the parent ~~or guardian~~
16 becomes available unless otherwise requested by the parents ~~or~~
17 ~~guardian~~. The assignment of a person as surrogate parent at no
18 time supersedes, terminates, or suspends the parents' ~~or~~
19 ~~guardians'~~ legal authority relative to the child. Any person
20 participating in good faith as surrogate parent on behalf of
21 the child before school officials or a hearing officer shall
22 have immunity from civil or criminal liability that otherwise
23 might result by reason of that participation, except in cases
24 of willful and wanton misconduct.

25 (l) At all stages of the hearing the hearing officer shall
26 require that interpreters be made available by the school
27 district for persons who are deaf or for persons whose normally
28 spoken language is other than English.

29 (m) If any provision of this Section or its application to
30 any person or circumstance is held invalid, the invalidity of
31 that provision or application does not affect other provisions
32 or applications of the Section that can be given effect without
33 the invalid application or provision, and to this end the
34 provisions of this Section are severable, unless otherwise

1 provided by this Section.

2 (Source: P.A. 89-652, eff. 8-14-96.)

3 (105 ILCS 5/14-8.02b)

4 Sec. 14-8.02b. Expedited Hearings.

5 (a) The changes made to this Section by this amendatory Act
6 of the 94th General Assembly shall apply to all expedited
7 hearings requested on or after the effective date of this
8 amendatory Act of the 94th General Assembly.

9 (b) Unless otherwise provided by this Section, the
10 provisions of Section 14-8.02a are applicable to this Section.
11 The State Board of Education shall provide for the conduct of
12 expedited hearings in accordance with the Individuals with
13 Disabilities Education Act, Public Law 108-446 ~~105-17~~, 20 USC
14 Sections 1400 et seq. (hereafter IDEA).

15 (c) An expedited hearing may be requested by:

16 (i) a parent ~~or guardian~~ or student if the student is
17 at least 18 years of age or emancipated, if there is a
18 disagreement with regard to a determination that the
19 student's behavior was not a manifestation of the student's
20 disability, or if there is a disagreement regarding the
21 district's decision to move the student to an interim
22 alternative educational setting for behavior at school, on
23 school premises, or at a school function involving a weapon
24 or and drug or for behavior at school, on school premises,
25 or at a school function involving the infliction of serious
26 bodily injury by the student, violation as defined by IDEA
27 pursuant to Section 615(k)(1)(G) ~~615(k)(1)(A)(ii)~~; and

28 (ii) a school district, if school personnel believe
29 ~~maintain~~ that maintaining the current placement of the
30 student is substantially likely to result in injury to the
31 student or others pursuant to Section 615(k)(3)(A) of IDEA
32 ~~it is dangerous for the student to be in the current~~
33 ~~placement (i.e. placement prior to removal to the interim~~

1 ~~alternative education setting) during the pendency of a due~~
2 ~~process hearing pursuant to Section 615(K)(F) of IDEA.~~

3 (d) A school district shall make a request in writing to
4 the State Board of Education and promptly mail a copy of the
5 request to the parents or ~~or guardian of the student (if at~~
6 least 18 years of age or emancipated) at the parents' or
7 student's last known address ~~of the parents or guardian~~. A
8 request made by the parent, ~~guardian,~~ or student (if at least
9 18 years of age or emancipated) shall be made in writing to the
10 superintendent of the school district in which the student
11 resides, who shall forward the request to the State Board of
12 Education within one business day of receipt of the request.
13 Upon receipt of the request, the State Board of Education shall
14 appoint a due process hearing officer using a rotating
15 appointment system and shall notify the hearing officer of his
16 or her appointment.

17 (e) A request for an expedited hearing initiated by a
18 district for the sole purpose of moving a student from his or
19 her current placement to an interim alternative educational
20 setting because of dangerous misconduct must be accompanied by
21 all documentation that substantiates the district's position
22 that maintaining the student in his or her current placement is
23 substantially likely to result in injury to the student or to
24 others. Also, the documentation shall include written
25 statements of (1) whether the district is represented by legal
26 counsel or intends to retain legal counsel; (2) the matters the
27 district believes to be in dispute in the case and the specific
28 relief being sought; and (3) the names of all witnesses the
29 district intends to call to testify at the hearing.

30 (f) An expedited hearing requested by the ~~student's~~ parent
31 or student (if at least 18 years of age or emancipated) ~~or~~
32 ~~guardian~~ to challenge the removal of the student from his or
33 her current placement to an interim alternative educational
34 setting or a manifestation determination made by the district

1 as described in IDEA shall include a written statement as to
2 the reason the parent ~~or guardian~~ believes that the action
3 taken by the district is not supported by substantial evidence
4 and all relevant documentation in the parent's ~~or guardian's~~
5 possession. Also, the documentation shall include written
6 statements of (1) whether the parent ~~or guardian~~ is represented
7 by legal counsel or intends to retain legal counsel; (2) the
8 matters the parent ~~or guardian~~ believes to be in dispute in the
9 case and the specific relief being sought; and (3) the names of
10 all witnesses the parent ~~or guardian~~ intends to call to testify
11 at the hearing.

12 (g) Except as otherwise described in this subsection (g),
13 the school district shall be required to convene the resolution
14 meeting described in subsection (g-20) of Section 14-8.02a of
15 this Code unless the parties choose to utilize mediation in
16 place of the resolution meeting or waive the resolution meeting
17 in accordance with procedures described in subsection (g-30) of
18 Section 14-8.02a of this Code. The resolution meeting shall be
19 convened within 7 days after the date that the expedited
20 hearing request is received by the district.

21 (h) The hearing officer shall not initiate or participate
22 in any ex parte communications with the parties, except to
23 arrange the date, time, and location of the expedited hearing.
24 The hearing officer shall contact the parties within 5 days ~~one~~
25 ~~day~~ after appointment and set a hearing date which shall be no
26 earlier than 15 calendar days following the school district's
27 receipt of the expedited hearing request or upon completion of
28 the resolution meeting, if earlier, and no later than 20 school
29 4 days after receipt of the expedited hearing request
30 ~~contacting parties~~. The hearing officer shall set a date no
31 less than 2 business days prior to the date of the expedited
32 hearing for the parties to exchange documentation and a list of
33 witnesses. The non-requesting party shall not be required to
34 submit a written response to the expedited hearing request. The

1 parties may request mediation. The mediation shall not delay
2 the timeline set by the hearing officer for conducting the
3 expedited hearing. The length of the hearing shall not exceed 2
4 days unless good cause is shown. Good cause shall be determined
5 by the hearing officer in his or her sole discretion and may
6 include the unavailability of a party or witness to attend the
7 scheduled hearing. ~~disclose and provide to each party any~~
8 ~~evidence which is intended to be submitted into the hearing~~
9 ~~record no later than 2 days before the hearing. The length of~~
10 ~~the hearing shall not exceed 2 days unless good cause is shown.~~

11 (i) Any party to the hearing shall have the right to (1) be
12 represented by counsel and be accompanied and advised by
13 individuals with special knowledge or training with respect to
14 the problems of children with disabilities, at the party's own
15 expense; (2) present evidence and confront and cross-examine
16 witnesses; (3) move for the exclusion of witnesses from the
17 hearing until they are called to testify, provided, however,
18 that this provision may not be invoked to exclude the
19 individual designated by a party to assist that party or its
20 representative in the presentation of the case; (4) in accord
21 with the provisions of subsection (g-55) ~~(g)~~ of Section
22 14-8.02a, obtain a written or electronic verbatim record of the
23 proceedings; and (5) obtain a written decision, including
24 findings of fact and conclusions of law, within 10 school ~~2~~
25 days after the conclusion of the hearing.

26 (j) The State Board of Education and the school district
27 shall share equally the costs of providing a written or
28 electronic verbatim record of the proceedings. Any party may
29 request that the hearing officer issue a subpoena to compel the
30 testimony of witnesses or the production of documents relevant
31 to the resolution of the hearing. Whenever a person refuses to
32 comply with any subpoena issued under this Section, the circuit
33 court of the county in which that hearing is pending, on
34 application of the impartial hearing officer or the party

1 requesting the issuance of the subpoena, may compel compliance
2 through the contempt powers of the court in the same manner as
3 if the requirements of a subpoena issued by the court had been
4 disobeyed.

5 (k) The impartial hearing officer shall issue a final
6 written decision, including findings of fact and conclusions of
7 law, within 10 school ~~2~~ days after the conclusion of the
8 hearing and mail a copy of the decision to the parents,
9 ~~guardian,~~ or student (if the student requests the hearing), the
10 school district, the director of special education, legal
11 representatives of the parties, and the State Board of
12 Education.

13 (l) The hearing officer presiding over the expedited
14 hearing shall hear only that issue or issues identified by IDEA
15 as proper for expedited hearings, leaving all other issues to
16 be heard under a separate request to be initiated and processed
17 in accordance with the hearing procedures provided for in this
18 Article and in accordance with the implementing regulations.

19 (Source: P.A. 90-566, eff. 1-2-98.)

20 (105 ILCS 5/14-8.02c new)

21 Sec. 14-8.02c. Due process hearing officers.

22 (a) The State Board of Education shall establish a corps of
23 hearing officers in accordance with this Section and may, with
24 the advice and approval of the Advisory Council on Education of
25 Children with Disabilities, adopt rules consistent with this
26 Section to establish the qualifications of and application
27 process for hearing officers.

28 (b) Hearing officers must, at a minimum, (i) possess a
29 master's or doctor's degree in education or another field
30 related to disability issues or a juris doctor degree; (ii)
31 have knowledge of and the ability to understand the
32 requirements of the federal Individuals with Disabilities
33 Education Act, Article 14 of this Code, the implementation of

1 rules or regulations of these federal and State statutes, and
2 the legal interpretation of the statutes, rules, and
3 regulations by federal and State courts; (iii) have the
4 knowledge and ability to conduct hearings in accordance with
5 appropriate, standard, legal practice; and (iv) have the
6 knowledge and ability to render and write decisions in
7 accordance with appropriate, standard, legal practice. Current
8 employees of the State Board of Education, school districts,
9 special education cooperatives, regional service areas or
10 centers, regional educational cooperatives, State-operated
11 elementary and secondary schools, or private providers of
12 special education facilities or programs may not serve as
13 hearing officers.

14 (c) If, at any time, the State Board of Education
15 determines that additional hearing officers are needed, the
16 State Board of Education shall recruit hearing officer
17 candidates who meet the criteria set forth in subsection (b) of
18 this Section.

19 (d) Candidates shall be screened by a 7-member Screening
20 Committee consisting of the following: the Attorney General or
21 his or her designee; the State Superintendent of Education or
22 his or her designee; 3 members appointed by the State
23 Superintendent of Education, one of whom shall be a parent of
24 an individual who is or at one time was eligible to receive
25 special education and related services in an Illinois school
26 district, another of whom shall be a director of special
27 education for an Illinois school district or special education
28 joint agreement, and the other of whom shall be an adult with a
29 disability; and 2 members appointed by the Attorney General,
30 one of whom shall be a parent of an individual who is or at one
31 time was eligible to receive special education and related
32 services in an Illinois school district and the other of whom
33 shall be an experienced special education hearing officer who
34 is not a candidate for appointment under this Section. The

1 chairperson of the Advisory Council on Education of Children
2 with Disabilities or his or her designee shall serve on the
3 Screening Committee as an ex-officio, non-voting member.
4 Appointments and reappointments to the Screening Committee
5 shall be for terms of 3 years. In the event that a member
6 vacates a seat on the Screening Committee prior to the
7 expiration of his or her term, a new member shall be appointed,
8 shall serve the balance of the vacating member's term, and
9 shall be eligible for subsequent reappointment. The Screening
10 Committee shall elect a chairperson from among its voting
11 members. Members of the Screening Committee shall serve without
12 compensation but shall be reimbursed by the State Board of
13 Education for their reasonable expenses. The Screening
14 Committee shall review hearing officer applications and
15 supporting information, interview candidates, and recommend
16 candidates to the Advisory Council on Education of Children
17 with Disabilities based upon objective criteria the Screening
18 Committee develops and makes available to the public. All
19 discussions and deliberations of the Screening Committee and
20 Advisory Council referenced anywhere in this Section
21 pertaining to the review of applications of hearing officer
22 candidates, the interviewing of hearing officer candidates,
23 the recommendation of hearing officer candidates for
24 appointment, and the recommendation of hearing officers for
25 reappointment are excepted from the requirements of the Open
26 Meetings Act, pursuant to item (15) of subsection (c) of
27 Section 2 of the Open Meetings Act.

28 (e) All hearing officer candidates recommended to the
29 Advisory Council on Education of Children with Disabilities
30 shall successfully complete initial training, as established
31 by the contract between the State Board of Education and the
32 training entity, as described in subsection (f), in order to be
33 eligible to serve as an impartial due process hearing officer.
34 The training shall include, at a minimum, instruction in

1 federal and State law, rules, and regulations, federal
2 regulatory interpretations and State and federal court
3 decisions regarding special education and relevant general
4 educational issues, diagnostic procedures, information about
5 disabilities, instruction on conducting effective and
6 impartial hearings in accordance with appropriate, standard,
7 legal practice, and instruction in rendering and writing
8 hearing decisions in accordance with appropriate, standard,
9 legal practice. The training must be conducted in an unbiased
10 manner by educational and legal experts, including qualified
11 individuals from outside the public educational system. Upon
12 the completion of the initial training, the Advisory Council on
13 Education of Children with Disabilities, applying objective
14 selection criteria it has developed and made available to the
15 public, shall go into executive session and select the number
16 of hearing officers deemed necessary by the State Board of
17 Education from those candidates who have successfully
18 completed the initial training. Upon selecting the candidates,
19 the Advisory Council shall forward its recommendations to the
20 State Superintendent of Education for final selection. The
21 hearing officers appointed by the State Superintendent of
22 Education shall serve an initial term of one year, subject to
23 any earlier permissible termination by the State Board of
24 Education.

25 (f) The State Board of Education shall, through a
26 competitive application process, enter into a contract with an
27 outside entity to establish and conduct mandatory training
28 programs for hearing officers. The State Board of Education
29 shall also, through a competitive application process, enter
30 into a contract with an outside entity, other than the entity
31 providing mandatory training, to conduct an annual evaluation
32 of each hearing officer and to investigate complaints against
33 hearing officers, in accordance with procedures established by
34 the State Board of Education in consultation with the Screening

1 Committee. The invitation for applications shall set forth
2 minimum qualifications for eligible applicants. Each contract
3 under this subsection (f) may be renewed on an annual basis,
4 subject to appropriation. The State Board of Education shall
5 conduct a new competitive application process at least once
6 every 3 years after the initial contract is granted. The
7 Screening Committee shall review the training proposals and
8 evaluation and investigation proposals and forward them, with
9 recommendations in rank order, to the State Board of Education.

10 (g) The evaluation and investigation entity described in
11 subsection (f) of this Section shall conduct an annual written
12 evaluation of each hearing officer and provide the evaluation
13 to the Screening Committee for its consideration in the
14 reappointment process. The evaluation shall include a review of
15 written decisions and any communications regarding a hearing
16 officer's conduct and performance by participants in impartial
17 due process hearings and their representatives. Each hearing
18 officer shall be provided with a copy of his or her written
19 evaluation report and shall have an opportunity, within 30 days
20 after receipt, to review the evaluation with the evaluation and
21 investigation entity and submit written comments. The annual
22 evaluation of each hearing officer, along with the hearing
23 officer's written comments, if any, shall be submitted to the
24 Screening Committee for consideration no later than April 1 of
25 each calendar year. The Screening Committee, based on objective
26 criteria and any evaluation reports prepared by the training
27 entity, shall, on an annual basis, recommend whether the
28 hearing officer should be reappointed for a one-year term and
29 shall forward its recommendations to the Advisory Council on
30 Education of Children with Disabilities. The Advisory Council
31 shall go into executive session and shall review the
32 recommendations of the Screening Committee for the purpose of
33 either ratifying or rejecting the recommendations of the
34 Screening Committee. The Advisory Council shall then forward

1 its list of ratified and rejected appointees to the State
2 Superintendent of Education, who shall determine the final
3 selection of hearing officers for reappointment. Each
4 reappointed hearing officer shall serve a term of one year,
5 subject to any earlier permissible termination by the State
6 Board of Education.

7 (h) Hearing officers shall receive a base annual stipend
8 and per diem allowance for each hearing at a rate established
9 by the State Board of Education. The State Board of Education
10 shall provide hearing officers with access to relevant court
11 decisions, impartial hearing officer decisions with
12 child-specific identifying information deleted, statutory and
13 regulatory changes, and federal regulatory interpretations.
14 The State Board of Education shall index and maintain a
15 reporting system of impartial due process hearing decisions and
16 shall make these decisions available for review by the public
17 after deleting child-specific identifying information.

18 (i) A hearing officer may be terminated by the State Board
19 of Education for just cause if, after written notice is
20 provided to the hearing officer, appropriate timely corrective
21 action is not taken. For purposes of this subsection (i), just
22 cause shall be (1) the failure or refusal to accept assigned
23 cases without good cause; (2) the failure or refusal to fulfill
24 his or her duties as a hearing officer in a timely manner; (3)
25 consistent disregard for applicable laws and rules in the
26 conduct of hearings; (4) consistent failure to conduct himself
27 or herself in a patient, dignified, and courteous manner to
28 parties, witnesses, counsel, and other participants in
29 hearings; (5) the failure to accord parties or their
30 representatives a full and fair opportunity to be heard in
31 matters coming before him or her; (6) violating applicable laws
32 regarding privacy and confidentiality of records or
33 information; (7) manifesting, by words or conduct, bias or
34 prejudice based upon race, sex, religion, disability, or

1 national origin; (8) failure to recuse himself or herself from
2 a hearing in which he or she has a personal, professional, or
3 financial conflict of interest that he or she knew or should
4 have known existed at any time prior to or during the hearing;
5 (9) conviction in any jurisdiction of any felony or of a
6 misdemeanor involving moral turpitude; or (10) falsification
7 of a material fact on his or her application to serve as a
8 hearing officer. In addition, a hearing officer who, as a
9 result of events occurring after appointment, no longer meets
10 the minimum requirements set forth in this Section, shall be
11 disqualified to complete the balance of his or her term.

12 (105 ILCS 5/14-8.02d new)

13 Sec. 14-8.02d. Evaluation of due process hearing system.
14 The State Board of Education shall monitor, review, and
15 evaluate the impartial due process hearing system on a regular
16 basis by a process that includes a review of written decisions
17 and evaluations by participants in impartial due process
18 hearings and their representatives. In conjunction with the
19 Annual State Report on Special Education Performance, the State
20 Board of Education shall submit data on the performance of the
21 due process hearing system, including data on timeliness of
22 hearings and an analysis of the issues and disability
23 categories underlying hearing requests during the period
24 covered by the Annual State Report. The data provided for the
25 Annual State Report must be submitted to the members of the
26 State Board of Education, the State Superintendent of
27 Education, the Advisory Council on Education of Children with
28 Disabilities, and the Screening Committee established under
29 Section 14-8.02c of this Code and must be made available to the
30 public.

31 (105 ILCS 5/14-12.01) (from Ch. 122, par. 14-12.01)

32 Sec. 14-12.01. Account of expenditures - Cost report -

1 Reimbursement. Each school board shall keep an accurate,
2 detailed and separate account of all monies paid out by it for
3 the maintenance of each of the types of facilities, classes and
4 schools authorized by this Article for the instruction and care
5 of pupils attending them and for the cost of their
6 transportation, and shall annually report thereon indicating
7 the cost of each such elementary or high school pupil for the
8 school year ending June 30.

9 Applications for preapproval for reimbursement for costs
10 of special education must be first submitted through the office
11 of the regional superintendent of schools to the State
12 Superintendent of Education on or before 30 days after a
13 special class or service is started. Applications shall set
14 forth a plan for special education established and maintained
15 in accordance with this Article. Such applications shall be
16 limited to the cost of construction and maintenance of special
17 education facilities designed and utilized to house
18 instructional programs, diagnostic services, other special
19 education services for children with disabilities and
20 reimbursement as provided in Section 14-13.01. Such
21 application shall not include the cost of construction or
22 maintenance of any administrative facility separated from
23 special education facilities designed and utilized to house
24 instructional programs, diagnostic services, and other special
25 education services for children with disabilities.
26 Reimbursement claims for special education shall be made as
27 follows:

28 Each district shall file its claim computed in accordance
29 with rules prescribed by the State Board of Education for
30 approval on forms prescribed by the State Superintendent of
31 Education. Data used as a basis of reimbursement claims shall
32 be for the school year ended on June 30 preceding. Each school
33 district shall transmit to the State Superintendent of
34 Education its claims on or before August 15. The State

1 Superintendent of Education before approving any such claims
2 shall determine their accuracy and whether they are based upon
3 services and facilities provided under approved programs. Upon
4 approval, vouchers for the amounts due the respective districts
5 shall be prepared and submitted during each fiscal year as
6 follows: the first 3 vouchers shall be prepared by the State
7 Superintendent of Education and transmitted to the Comptroller
8 on the 30th day of September, December and March, respectively,
9 and the final voucher, no later than June 20. If, after
10 preparation and transmittal of the September 30 vouchers, any
11 claim has been redetermined by the State Superintendent of
12 Education, subsequent vouchers shall be adjusted in amount to
13 compensate for any overpayment or underpayment previously
14 made. If the money appropriated by the General Assembly for
15 such purpose for any year is insufficient, it shall be
16 apportioned on the basis of the claims approved.

17 Claims received at the State Board of Education after
18 August 15 shall not be honored. ~~Claims received by August 15~~
19 ~~may be amended until November 30.~~

20 (Source: P.A. 91-764, eff. 6-9-00.)

21 Section 99. Effective date. This Act takes effect July 1,
22 2006.".